

## LAW OFFICES

**WRIGHT, HENSON, CLARK & BAKER, LLP**

THOMAS E. WRIGHT  
CHARLES N. HENSON  
BRUCE J. CLARK\*  
ANNE LAMBORN BAKER  
EVELYN ZABEL WILSON  
JOHN H. HUTTON\*\*  
DAVID P. MUDRICK\*\*  
MELISSA KASPRZYK

100 S.E. 9th Street, 2nd Floor  
P.O. Box 3555  
TOPEKA, KANSAS 66601-3555  
(785) 232-2200  
Telefax (785) 232-3344  
E-Mail: [wrighthenson@wrighthenson.com](mailto:wrighthenson@wrighthenson.com)

SPECIAL COUNSEL  
J. PHILLIP GRAGSON\*\*  
PATRICIA E. HAMILTON\*\*

OF COUNSEL  
JOHN H. WACHTER  
THOMAS D. HANEY

**RECEIVED**

MAR 11 2004

\*ADMITTED U.S. PATENT & TRADEMARK OFFICE  
\*\*ALSO ADMITTED IN MISSOURI

OFFICE OF PETITIONS

Our File No.

Sender's e-mail  
[bclark@wrighthenson.com](mailto:bclark@wrighthenson.com)

February 25, 2004  
Sent Via Telefax 703/872-9301

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FEB 25 2004

**Group 3700**

Commissioner of Patents and Trademarks  
ATTENTION: Larry Schwartz

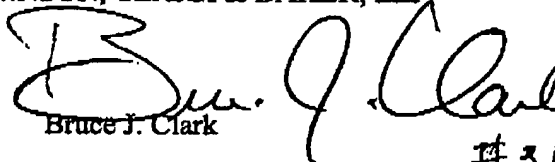
RE: Patent Application, Serial Number 09/369,508

Dear Mr. Schwartz:

Pursuant to your instructions, the attached is a true and correct copy of the Petition to Revive Unintentionally Abandoned Application, Declaration in Support, and the CPA, along with the Certificate of Mailing showing all were mailed on July 31, 2002.

Very truly yours,

WRIGHT, HENSON, CLARK &amp; BAKER, LLP

  
Bruce J. Clark

# 31,339

BJC/slz  
Enc.

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
John Turak  
Serial No. 09/369,508  
Filed: 8/8/99  
For: COMBINATION SWIMMING, WALKING,  
RUNNING, MASSAGE, THERAPEUTIC,  
AND RECREATIONAL DEVICE

Group Art Unit: 3764  
Examiner: Richman, G.

**RECEIVED**

FEB 26 2004

**Group 3700**

Box DAC  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**RECEIVED**

MAR 11 2004

OFFICE OF PETITIONS

PETITION TO REVIVE UNINTENTIONALLY  
ABANDONED APPLICATION UNDER 37 C.F.R. 1.137(b)

Dear Sir:

Applicants' attorney respectfully petitions the Commissioner of Patents and Trademarks to revive the above-identified application under the provisions of 37 C.F.R. 1.137(b) on the ground that as to the applicant, the abandonment of the above-identified application was completely unintentional. This Petition is supported by the Declaration of the undersigned; a Continued Prosecution Application is also filed herewith.

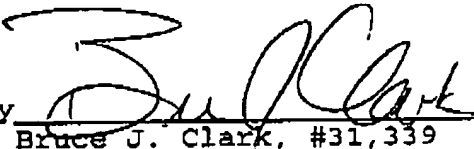
Applicant has submitted the appropriate filing fee and requests the revival of the application on grounds that the abandonment was unintended. This application and another filed by the Applicant had similar due dates for responses to office actions in late April, and Applicant inadvertently, switched the dates and responded only to the other (Application Serial number 08/884,546, allowing inadvertently and unintentionally the date for response to this application to pass.

Applicant has reviewed the issues and believe the instant request to revive to be the most effective procedure for further prosecution and respectfully request reinstatement. At no time did applicants or their attorney intend to abandon the application.

Respectfully submitted,

Date: 7/31/02

WRIGHT, HENSON, SOMERS, SEBELIUS,  
CLARK & BAKER, LLP  
Commerce Bank Building Downtown, 2nd Floor  
100 E. 9th Street, P. O. Box 3555  
Topeka, Kansas 66601-3555  
(913) 232-2200

By   
Bruce J. Clark, #31,339  
Attorney for Applicant

CERTIFICATE OF MAILING

I hereby certify that this Petition To Revive Unintentionally Abandoned Application Under 37 C.F.R. 1.137(b), with attached Declaration and filing fee, and with a Continued Prosecution Application, is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

Box DAC  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

on July 31, 2002.

WRIGHT, HENSON, SOMERS, SEBELIUS,  
CLARK & BAKER, LLP  
Commerce Bank Building Downtown, 2nd Floor  
100 E. 9th Street, P. O. Box 3555  
Topeka, Kansas 66601-3555  
(913) 232-2200

Date: 7/31/02

By 

Bruce J. Clark  
Registration No. 31,339

## DECLARATION

The undersigned, Bruce J. Clark, states as follows:

1. I am a registered patent attorney, Registration No. 31,339.

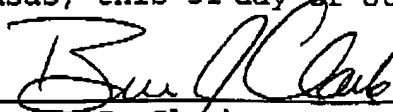
2. I am responsible for the prosecution of the above-identified United States patent application, serial number 09/369,503.

3. This application and another filed by the Applicant had similar due dates for responses to office actions in late April, and Applicant inadvertently, switched the dates and responded only to the other (Application Serial number 08/884,546), allowing inadvertently and unintentionally the date for response to this application to pass.

4. At no time did the undersigned or the applicants intend to abandon the application; the abandonment was clearly unintentional.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed at Topeka, Kansas, this 31 day of July, 2002.

  
\_\_\_\_\_  
Bruce J. Clark  
100 E. 9th Street, P. O. Box 3555  
Topeka, Kansas 66601-3555  
(913) 232-2200  
Citizenship: U.S.A.

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MAR 11 2004

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Group 3700

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## OFFICE OF PETITIONS

 PTO/SM/29 (1/98)  
 Approved for use through 09/30/2000. OMB 0651-0032  
 Patent and Trademark Office; US Department of Commerce

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

**CONTINUED PROSECUTION APPLICATION (CPA)  
 REQUEST TRANSMITTAL**

 Submit an original, and a duplicate for fee processing.  
 (Only for Continuation or Divisional applications under 37 C.F.R. 1.53(d))

CHECK BOX, if applicable

## Address to:

 Assistant Commissioner for Patents  
 Box CPA  
 Washington, D.C. 20231

Attorney Docket No.

First Named Inventor

TURAK, et al

Examiner Name

RICHMAN, G

Group/Art Unit

3764

Express Mail Label No.

EL 919170965 US

 This is a request for a  X  continuation or   divisional application under 37 C.F.R. § 1.53(d), (continued prosecution application (CPA)) of prior application number  09 / 369,508 , filed on  8/06/99 , entitled

 Combination Swimming, Walking, Running, Massage, Therapeutic, and Recreational Device filed 8/06/99, 

## NOTES

**FILING QUALIFICATIONS:** The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 C.F.R. § 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. A Notice will be placed on a patent issuing from a CPA, except for reissues and designs, to the effect that the patent issued on a CPA and is subject to the twenty-year patent term provisions of 35 U.S.C. § 154(a)(2). Therefore, the prior application of a CPA may have been filed before, on or after June 8, 1995.

**C-I-P NOT PERMITTED:** A continuation-in-part application can not be filed as a CPA under 35 C.F.R. § 1.53(d), but must be filed under 37 C.F.R. § 1.53(b).

**EXPRESS ABANDONMENT OF PRIOR APPLICATION:** The filing of this CPA is a request to expressly abandon the prior application as of the filing date of this request for a CPA. 37 C.F.R. § 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

**ACCESS TO PRIOR APPLICATION:** The filing of this CPA will be construed to include a waiver of confidentiality by the application under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 C.F.R. § 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

**35 U.S.C. 120 STATEMENT:** In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 C.F.R. § 1.78(a).

1.   Enter the unentered amendment previously filed on   under 37 C.F.R. § 1.116 in the prior nonprovisional application.
2.   A preliminary amendment is enclosed.
3. This application is filed by fewer than all the inventors named in the prior application, 37 C.F.R. § 1.53(d)(4).
  - a.   **DELETE** the following inventor(s) named in the prior nonprovisional application:
  - b.   The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4.   A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
5. Information Disclosure Statement (IDS) is enclosed:
  - a.   PTO-1449
  - b.   Copies of IDS Citations

(Page 1 of 2)

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Please type a plus sign (+) inside this box ☐

PTO/SM/29 (1/98)

Approved for use through 09/30/2000, OMB 0651-0032

Patent and Trademark Office, US Department of Commerce

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	TOTAL CLAIMS (37 C.F.R. § 1.16(c) or (f))			\$ -	\$
	INDEPENDENT CLAIMS (37 C.F.R. § 1.16(b) or (j))			\$ -	
	MULTIPLE DEPENDENT CLAIMS (if applicable) (37 C.F.R. § 1.16(d))			+\$	\$260.00
				BASIC FEE (37 C.F.R. § 1.16)	\$690.00
				Total of Above Calculations =	\$950.00
				Reduction by 50% for filing by small entity (Note 37 C.F.R. §§ 1.9, 1.27 & 1.28).	X 1/2
				Reissue claims in excess of 20 and over original patent. Reissue independent claims over original patent.	\$475.00
				TOTAL =	

6. Small entity status:
- a. ☐ A small entity statement is enclosed. If (b) and (c) do not apply.
- b. ☒ A small entity statement was filed in the prior nonprovisional application and such status is still proper and desired.
- c. ☐ Is no longer claimed.
7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. \_\_\_\_\_.
- a. \_\_\_\_\_ Fees required under 37 C.F.R. § 1.16.
- b. \_\_\_\_\_ Fees required under 37 C.F.R. § 1.17.
- c. \_\_\_\_\_ Fees required under 37 C.F.R. § 1.18.
8. A check in the amount of \$475.00 is enclosed.
9. New Attorney Docket Number, if desired \_\_\_\_\_
10. a. \_\_\_\_\_ Receipt For Facsimile Transmitted CPA (PTO/SB/29A)
- b. \_\_\_\_\_ Return Receipt Postcard (should be specifically itemized, See MPEP 503)
11. Other: \_\_\_\_\_

**NOTE:**

The prior application's correspondence address will carry over to this CPA UNLESS a new correspondence address is provided below.

**12. NEW CORRESPONDENCE ADDRESS**

_____ Customer number or Bar Code Label		_____ New correspondence address below	
(Insert Customer No. or Attach bar code label here)			
Name			
Address			
City	State	Zip Code	
Country	Telephone	Fax	

**11. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print/Type)	Bruce J. Clark
Signature	<i>Bruce J. Clark</i>
Registration No. (Attorney/Agent)	31,339
Date	7/31/02

[Page 2 of 2]



CERTIFICATE OF MAILING

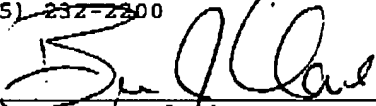
I hereby certify that the CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL for Application No. 09/369,508 and a filing fee check in the amount of \$475.00 is being deposited with the United States Postal Service, First Class mail on this 31<sup>st</sup> day of July, 2002, pursuant to 37 CFR 1.53(d) addressed to the Assistant Commissioner for Patents, Box CPA, Washington, D.C. 20231, and in accordance therewith a filing date of July 31, 2002, is requested.

WRIGHT, HENSON, SOMERS, SEBELIUS,  
CLARK & BAKER, LLP  
Commerce Bank Building Downtown, 2nd Fl.  
100 E. 9th St., P.O. Box 3555  
Topeka, KS 66601-3555  
(785) 232-2200

Date:

7/31/02

By

  
Bruce J. Clark

Registration No. 31,339